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OFFICE OF PETITIONS

In re Application of	:	
Alan K. Gorenstein	:	
Application No. 09/766,636	:	DECISION GRANTING PETITION
Filed: January 23, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 38188-382	:	

This is a decision on the petition filed August 1, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states the instant nonprovisional application is the subject of an application filed in a foreign country on January 17, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of November 21, 2002 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

The application file is being forwarded to Technology Center Art Unit 3622 to await a reply to the final action mailed July 31, 2002. Failure to timely reply to the final Office action will result in the abandonment of the application.



Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt